

## HUMAN SERVICES BOARD

# INTRODUCTION

## FINDINGS OF FACT

2. During a review of his Food Stamp eligibility in January, the petitioner reported that he received two biweekly paychecks that month which averaged \$813.15. This slight increase in the petitioner's income resulted in a

reduction in his Food Stamps from \$134 to \$129 per month effective January 1, 2006.<sup>1</sup>

3. At a hearing in this matter held on April 21, 2006 the petitioner stated that his income had decreased since January. He was advised to furnish any updated income information to the Department, which it appears he did on May 3, 2006. Based on this information it appears the Department recently raised the petitioner's Food Stamps to \$142 a month.

4. At a telephone hearing on May 15, 2006, the petitioner indicated he did not disagree with any of the Department's determinations regarding his present income and expenses, except for an item that has been part of his paycheck every month since at least 2004. This is a biweekly payment of \$19.23 that is designated on his paycheck as a "medical insurance opt-out". It appears that the petitioner receives this payment because he has chosen not to be covered by his employer's health plan.

ORDER

The Department's decision is affirmed.

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<sup>1</sup> The notice of this action (dated January 23, 2006) corrected (based on the updated income information provided by the petitioner) a previous notice that had reduced his Food Stamps to \$127 for January.

REASONS

The Food Stamp regulations include all gross wages from employment as countable earned income. Food Stamp Manual (F.S.M.) § 273.9(b). Deductions from income are limited to those specifically itemized in the regulations. Food Stamp Manual (F.S.M.) § 273.9(d). All households under five persons receive a "standard deduction" of \$134, and those with earned income can deduct 20 percent of that income. Households are also entitled to a "shelter deduction" in the amount by which their total shelter costs exceed one half of their net income. In this case there is no dispute that the Department allowed all the deductions from income that are specifically listed in the regulations.

It appears that the only remaining dispute in the petitioner's case is whether the biweekly "health insurance opt-out" payment of \$19.23 included in his paychecks should be counted as earned income. As noted above, nothing in regulations allows a *deduction* from income for payments of this type. Similarly, the regulations specify that only listed items can qualify as *exclusions* from income. Id. § 273.9(c). The only exclusion listed in the regulations that would remotely relate to the payment at issue in this case is for "medical reimbursements". Id. § 273(c)(5)(i)(C).

However, this provision specifies that to qualify as a reimbursement the payment must be "used for a specific expense", and "not represent a gain or benefit to the household". In this case there is no claim or indication that the payment in question is in any way tied to any actual medical expense of any household member. Rather, it appears simply to be additional compensation in lieu of health insurance, and there is no question that the petitioner gains from it and can spend it any way he chooses.

Inasmuch as the petitioner cannot show that the amount of his Food Stamps was not determined in accord with the applicable regulations and the facts as they pertain to his case, the Board is bound by law to affirm the Department's decision. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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